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PERKINS COIE LLP
P.O. BOX 2168
MENLO PARK CA 94026

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OFFICE OF PETITIONS

In re Application of
Gough, et al.

Application No. 08/963,239

Filed: November 3, 1997

Attorney Docket No. 13724-787

For: MULTIPLE ANTENNA ABLATION
APPARATUS AND METHOD

ON PETITION

This is a decision on the petition entitled, "Renewed Petition under 37 CFR 1.47(a) and Request for Reconsideration," filed May 5, 2004. The petition will be treated under (1) 37 CFR 1.183 as a request to waive 37 CFR 1.64 and 1.67, which require each of the inventors to sign the declaration; (2) 37 CFR 1.48 to change the inventive entity; and (3) 37 CFR 1.183 as a request for waiver of 37 CFR 1.48(a)(3), which requires an executed oath or declaration by the actual inventors.

The petition under 37 CFR 1.183 to waive 37 CFR 1.48(a)(3) is **granted**.

The petition under 37 CFR 1.183 to waive 37 CFR 1.64 and 1.67 is **granted**.

The petition under 37 CFR 1.48(a) is **granted**.

Edward J. Gough and Alan A. Stein were listed as co-inventors on the subject application as filed. A declaration executed by the two joint inventors was filed on April 6, 1998. Petitioner seeks to add Stuart D. Edwards as a third joint inventor.

37 CFR 1.48(a) requires:

- (1) a request to correct the inventorship that sets forth the desired inventorship change;
- (2) a petition including a statement from each person being added and from each person being deleted as an inventor that the error occurred without deceptive intention on his or her part;
- (3) an oath or declaration by each actual inventor or inventors as required by 37 CFR 1.63 or as permitted by 37 CFR 1.42, 1.43 or 1.47;
- (4) the fee set forth in 37 CFR 1.17 (I); and
- (5) the written consent of any existing assignee, if any of the originally named inventors has executed an assignment;

Petitioner has submitted a declaration listing all three joint inventors and their identifying information. Mr. Edwards, the to-be-added inventor, has signed the declaration and a statement of lack of deceptive intent. Petitioner has shown that the previously signing joint inventors, Gough and Stein, received copies of the amendments to the application and a new declaration, but each either expressly or constructively refused to sign the new declaration. Petitioner has submitted all required petition fees and the written assent of the assignee.

Petitioner has satisfied requirements (1),(2),(4), and (5) listed above.

With respect to (3), petitioner has demonstrated that Gough and Stein have refused to execute the supplemental declaration. It is agreed that, under the circumstances of this case, justice would be served by waiver of the rules where they require Gough's and Stein's signature on any supplemental declaration. Petitioner has shown (1) that this is an extraordinary situation where (2) justice requires waiver of the rule. *In re Sivertz*, 227 U.S.P.Q. 255, 256 (Comm'r Pat. 1985).

The petition under 37 CFR 1.183 to waive 37 CFR 1.48(a)(3) is **granted**. The petition under 37 CFR 1.183 requesting waiver of 37 CFR 1.64 and 1.67 is **granted**. The petition under 37 CFR 1.48 is **granted**.

Petitioner has shown that this nonprovisional application, as filed, through error and without deceptive intent, improperly set forth the inventorship, and, accordingly, this application has been corrected in compliance with 37 CFR 1.48(a). The inventorship of this application has been changed by the addition of Stuart D. Edwards as a joint inventor.

Please find enclosed a corrected filing receipt.

After the mailing of this decision, the application file will be returned to Technology Center 3700.

Telephone inquiries related to this decision should be directed to the undersigned at (703) 308-6712.



E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

enclosure: corrected filing receipt